

Part 101 Subpart 2 Chapter 5: Initial Action on Complaint

Rule 5.1 Upon receipt of a submitted complaint, the Executive Committee shall take the following actions:

- (1) Provide notice to the Respondent advising that a complaint has been made setting out the time and place of the alleged violation, the identity of the Complainant, Respondent's right to file a written response within fourteen (14) days, and the Respondent's right to contest an adverse decision.
- (2) After expiration of the response deadline set forth in subsection (1) of this Enforcement Rule, the executive secretary or other designee of the Executive Committee shall initially review the complaint and response if one has been submitted, and in the limited circumstances described in Enforcement Rule 10.2, may issue a citation to the Respondent which includes the following:
 - (a) A description of the violation;
 - (b) The date and location of the violation;
 - (c) Reference to the statute or rule that is considered violated;
 - (d) The civil penalty that may be paid and/or training completed within thirty (30) days to terminate the matter; and
 - (e) A description of the respondent's rights and obligations should he not pay the civil penalty and/or complete training within thirty (30) days.

Source: Miss. Code Ann. §§ 77-13-27, 29 and 31.

Rule 5.2 The Executive Secretary or other designee of the Executive Committee may request assistance of the Committee Chairman to determine if a complaint falls within the limited circumstances described in Enforcement Rule 10.2 prior to issuing the citation described in Enforcement Rule 5.1.

Source: Miss. Code Ann. §§ 77-13-27, 29 and 31.

Rule 5.3 If the complaint does not fall within routine violations as determined by the Executive Secretary or other designee of the Executive Committee under Enforcement Rule 10.2, the complaint and response if one has been submitted shall be referred to the Executive Committee as a whole, which may take one of the following actions:

- (1) Find that a violation has occurred, determine an appropriate penalty pursuant to the guidelines described in Enforcement Rule 7.1, and return it to the Executive Secretary to issue a citation to the respondent which

includes the contents described in Enforcement Rule 5.1;

- (2) Find that a violation has not occurred, inform the complainant accordingly, and dismiss the complaint; or
- (3) Find that further investigation of the complaint is required, and proceed according to Enforcement Rule 6.1.

Complainant shall be notified when a citation is issued to Respondent pursuant to any Enforcement Rule.

Source: Miss. Code Ann. §§ 77-13-27, 29 and 31.

Part 101 Subpart 2 Chapter 6: Investigations of the Complaint

Rule 6.1 In cases in which the Executive Committee determines that further investigation of a complaint is required as described in Enforcement Rule 5.3(3), the Executive Committee shall do the following:

- (1) Perform an investigation of the alleged violations contained in the complaint. The investigation may include one or more of the following:
 - (a) A written request to the Pipeline Safety Division that an investigator from the division perform an investigation of the complaint pursuant to the rules and processes adopted by the Board.
 - (b) An investigation performed by the Executive Committee or its staff.
 - (c) An investigation performed by a third party approved by the Board.
 - (d) A request for documents, information and/or other evidence as applicable related to the complaint from Complainant or Respondent, in accordance with Miss. Code Ann. §25-43-1.106.
- (2) Determine whether a violation has occurred based on the results of the investigation.
- (3) Where a violation has occurred, determine an appropriate penalty pursuant to the guidelines described in Enforcement Rule 7.1, and issue a show cause letter to the respondent which includes the contents described in Enforcement Rule 5.1.
- (4) Where a violation has not occurred, inform the complainant and respondent accordingly, and dismiss the complaint.

Source: Miss. Code Ann. §§ 77-13-27, 29 and 31.

Part 101 Subpart 2 Chapter 10: Routine Violations as Determined by the Executive Secretary

Rule 10.1 Where upon initial review of a complaint, documents submitted simultaneously therewith, written response submitted by Respondent if one is submitted, and the applicable locate ticket or tickets provided by Mississippi 811, the Executive Secretary or other designee of the Executive Committee may issue a citation to the respondent pursuant to Enforcement Rule 5.1 if the Executive Secretary determines:

- (1) The alleged violation falls within a category of violations described in Enforcement Rule 10.2 and that a violation has occurred based exclusively on information included in the submitted complaint, the documents provided therewith, and the applicable locate ticket or tickets provided by Mississippi 811.

Source: Miss. Code Ann. §§ 77-13-27 and 29

Rule 10.2 The Executive Secretary may issue citations without any further investigation or executive committee action, for the following violations:

- (1) The excavation complained of occurred after the expiration of the subject locate ticket.
- (2) The excavation complained of commenced sooner than lawfully allowed.
- (3) The excavator failed to make a utility locate request with Mississippi 811 prior to commencement of the subject excavation.
- (4) The utility owner or operator fails to comply with the deadlines set forth in Miss. Code Ann. § 77-13-9.
- (5) The excavation occurred within the tolerance zone.

Source: Miss. Code Ann. §§ 77-13-27 and 29

Part 101 Subpart 2 Chapter 5: Initial Action on Complaint

Rule 5.1 Upon receipt of a submitted complaint, the Executive Committee shall take the following actions:

- (1) Provide notice to the Respondent advising that a complaint has been made setting out the time and place of the alleged violation, the identity of the Complainant, Respondent's right to file a written response within fourteen (14) days, and the Respondent's right to contest an adverse decision.
- (2) After expiration of the response deadline set forth in subsection (1) of this Enforcement Rule, The executive secretary or other designee of the Executive Committee shall initially review the complaint and response if one has been submitted, and in the limited circumstances described in Enforcement Rule 10.2, may issue a citation to the Respondent which includes the following:
 - (a) A description of the violation;
 - (b) The date and location of the violation;
 - (c) Reference to the statute or rule that is considered violated;
 - (d) The civil penalty that may be paid and/or training completed within thirty (30) days to terminate the matter; and
 - (e) A description of the respondent's rights and obligations should he not pay the civil penalty and/or complete training within thirty (30) days.

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~~(3) Reference to the statute or rule that is considered violated;~~

~~(4) The civil penalty that may be paid and/or training completed within thirty (30) days to terminate the matter; and~~

~~(5) A description of the respondent's rights and obligations should he not pay the civil penalty and/or complete training within thirty (30) days.~~

Source: Miss. Code Ann. §§ 77-13-27, 29 and 31.

Rule 5.2 The Executive Secretary or other designee of the Executive Committee may request assistance of the Committee Chairman to determine if a complaint falls within the limited circumstances described in Enforcement Rule 10.2 prior to issuing the citation described in ~~paragraph (A) above~~ Enforcement Rule 5.1.

Source: Miss. Code Ann. §§ 77-13-27, 29 and 31.

Rule 5.3 If the complaint does not fall within routine violations as determined by the Executive Secretary or other designee of the Executive Committee under Enforcement Rule 10.2, the complaint and response if one has been submitted shall be referred to the Executive Committee as a whole, which may take one of the following actions:

- (1) Find that a violation has occurred, determine an appropriate penalty pursuant to the guidelines described in Enforcement Rule 7.1, and return it to the Executive Secretary to issue a citation to the respondent which includes the contents described in ~~(A) of this rule~~ Enforcement Rule 5.1;
- (1) Find that a violation has not occurred, inform the complainant accordingly, and dismiss the complaint; or
- (2) Find that further investigation of the complaint is required, and proceed according to Enforcement Rule 6.1.

Complainant shall be notified when a citation is issued to Respondent pursuant to any Enforcement Rule.

Source: Miss. Code Ann. §§ 77-13-27, 29 and 31.

Part 101 Subpart 2 Chapter 6: Investigations of the Complaint

Rule 6.1 In cases in which the Executive Committee determines that further investigation of a complaint is required as described in Enforcement Rule 5.3(3), the Executive Committee shall do the following:

- ~~(1) — Serve notice of the complaint along with a request for documents and other evidence related to the complaint upon the Respondent, in accordance with Miss. Code Ann. §25-43-1.106. —~~
- ~~(2)~~
- (1) Perform an investigation of the alleged violations contained in the complaint. The investigation may include one or more of the following:
 - (a) A written request to the Pipeline Safety Division that an investigator from the division perform an investigation of the complaint pursuant to the rules and processes adopted by the Board.
 - (b) An investigation performed by the Executive Committee or its staff.
 - (c) An investigation performed by a third party approved by the Board.
 - (d) A request for documents, information and/or other evidence as

applicable related to the complaint from Complainant or
Respondent, in accordance with Miss. Code Ann. §25-43-1.106.

- ~~(3)~~
- (2) Determine whether a violation has occurred based on the results of the investigation.
- ~~(4)~~
- (3) Where a violation has occurred, determine an appropriate penalty pursuant to the guidelines described in Enforcement Rule 7.1, and issue a show cause letter to the respondent which includes the contents described in Enforcement Rule 5.1.
- ~~(5)~~
- (4) Where a violation has not occurred, inform the complainant and respondent accordingly, and dismiss the complaint.

Source: Miss. Code Ann. §§ 77-13-27, 29 and 31.

Part 101 Subpart 2 Chapter 10: Routine Violations as Determined by the Executive Secretary

Rule 10.1 Where upon initial review of a complaint, documents submitted simultaneously therewith, written response submitted by Respondent if one is submitted, and the applicable locate ticket or tickets provided by Mississippi 811, the Executive Secretary or other designee of the Executive Committee may issue a citation to the respondent pursuant to Enforcement Rule 5.1 if the Executive Secretary determines:

- (2) The alleged violation falls within a category of violations described in Enforcement Rule 10.2 and that a violation has occurred based exclusively on information included in the submitted complaint, the documents provided therewith, and the applicable locate ticket or tickets provided by Mississippi 811.

Source: Miss. Code Ann. §§ 77-13-27 and 29

Rule 10.2 The Executive Secretary may issue citations without any further investigation or executive committee action, for the following violations:

- (5) The excavation complained of occurred after the expiration of the subject locate ticket.
- (6) The excavation complained of commenced ~~less than two working days from the time Mississippi 811 processed the locate ticket for the planned~~

~~excavation~~ sooner than lawfully allowed.

- (7) The excavator failed to make a utility locate request with Mississippi 811 prior to commencement of the subject excavation.
- (8) The utility owner or operator fails to comply with the deadlines set forth in Miss. Code Ann. § 77-13-9.
- (5) The excavation occurred within the tolerance zone.

Source: Miss. Code Ann. §§ 77-13-27 and 29